

Appl. No. 09/854,190
Response dated April 27, 2005
Amendment Accompanying RCE

REMARKS

Reconsideration is respectfully requested. Claims 1-6 are present in the application. Claims 1 and 4 are amended herein.

The Examiner has rejected claims 1-6 under 35 U.S.C. 103(a) as being "*anticipated by*" (the applicants believe the Examiner means "*unpatentable over*" or "*made obvious by*") Zajdman et al. U.S. Patent 5,099,492. The applicants respectfully traverse. The Zajdman document does not meet all of the limitations in the claims. For example, Zajdman does not teach or suggest a center offset, and it does not disclose spacers as claimed by the applicants.

In the Advisory Action, the Examiner says that Zajdman et al show spacers required by claims 1 and 4 that teach or suggest a center offset. The Examiner said items 4, 5, 6, and 16 of FIG. 4 of Zajdman et al are spacers.

Applicant respectfully traverses. It is respectfully believed that itemst 4, 5, 6 and 16 cannot be interpreted to be spacers as claimed.. Items 4, 5, 6 and 16 in FIG. 4 of the reference are not "spacers", but instead, items 4 and 6 are "channels", while item 5 is a "gain region". Item 16 is a "cylindrical beam". None of these is a "spacer".

The Examiner alleges obviousness stating "discovering the optimum or workable ranges involves only routine skill in the art, in this case the center position and offset center (The

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term used in the specification and claims is "center offset".) The Zajdman document, however, describes using an "annular flat feedback mirror 20", see Fig. 4. A flat mirror has no center offset. The center offset as disclosed and claimed is determined by its focal point. A flat mirror has no focal point. The Examiner's action does not include a prima facie case of obviousness as all the limitations of the claims are not met nor suggested by the Zajdman document.

Another limitation not met by Zajdman is "...by way of spacers..." in independent claims 1 and 4. In co-pending application 09/854,421, in rejecting claims the Examiner argues the Zajdman et al. U.S. 5,099,492 reference shows "a cylindrical straight slab type gas laser **...without the need for spacers** disposed between the electrodes." In rejecting applicants' claims for this application in the current action the Examiner argues that the same document (Zajdman et al. U.S. 5,099,492) show "a cylindrical straight slab type gas laser ... a pair of cylindrical electrodes... disposed concentrically **by way of spacers.**" The same reference, having one embodiment, in the same figure can not possibly show the absence of spacers and at the same time the presence of spacers! In both cases the Examiner is picking and choosing limitations that are not present to reject applicants' claims. The Zajdman document does not meet all the limitations of applicants' claims in the related application, and it does not meet all the limitations of

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the claims in this application, the spacers noted above being one example. The applicants respectfully request the Examiner reconsider and allow all the claims in this case.

As discussed in applicant's response to the Examiner's action dated August 26 2003, adjusting the center offset is not a result-effective variable. By adjusting the center offset, one of ordinary skill in the art would expect to adjust the beam intensity, not the intensity distribution. Fig. 5(a)-5(c) show the results of applicants' experimentation of varying the center offset. The applicants teach how the center offset can be modified for the purpose of improving intensity distribution. The prior art does not. Claims 2-3 and 5-6 depend respectfully from and include all the limitations of claims 1 and 4 which are believed to be allowable.

The other art cited has not been relied on and is therefore believed to not be pertinent.

In the advisory action, the Examiner mentions an obviousness-type double patenting rejection over 09/854,421. However, there was no such double patenting rejection in the final office action, so it is respectfully submitted that it should not have been raised in the advisory action. Applicant responded to the double patenting rejection earlier, and since it was not repeated in the final office action, applicant respectfully submits that the double patenting rejection has been waived.

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In light of the above noted remarks, this application is believed in condition for allowance and notice thereof is respectfully solicited. The Examiner is asked to contact applicant's attorney at 503-224-0115 if there are any questions.

Respectfully submitted,


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